

Service Date: April 19, 1979

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

In the Matter of the Public Utility)
Status of BURLINGTON NORTHERN, INC.) DOCKET NO. 6533
as Regards Water Service to the NUT-))
TING II Subdivision, Laurel, MT.) ORDER NO. 4497a

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RESPONDENT-BURLINGTON NORTHERN'S
MOTION TO STAY GRANTED UNTIL JUNE 4, 1979

* * *

On March 30, 1979, the Montana Public Service Commission issued Order No. 4497 in the above captioned matter. Said Order found Burlington Northern, Inc. to be a water utility under current Montana law as concerns the railroads providing water service to the Nutting II Subdivision of the City of Laurel. Order No. 4497 ordered the railroad to file appropriate tariffs and to obey all other laws of Montana and regulations of this Commission as applies to water utilities.

On April 10, 1979, this Commission was in receipt of a Motion from the railroad requesting:

- 1) rehearing; or
- 2) reconsideration; and
- 3) a stay of

Order No. 4497

Respondent-railroad supports its Motion by stating that Burlington Northern and the City of Laurel, involved in

negotiations concerning the Nutting II Subdivision may be near a resolution of the two parties differences. BN states that the two parties are close to entering into an agreement whereby the City of Laurel would take over responsibility for supplying water to the persons in the aforementioned Subdivision.

The Commission notes that "negotiations" between the City of Laurel and Burlington Northern, Inc. has been an ongoing activity for a number of years, but if the parties still believe that a resolution of the dispute is possible, we will allow approximately 45 additional days, until 5:00 p.m., June 4, 1979, before effectuating Order No. 4497. The Commission chooses not to rule on the railroad's request for rehearing or reconsideration until that time. It is, therefore, the Commission's express purpose to not deem Order No 4497 final for appeal or any other purpose until the matter is considered by the Commission after June 4, 1979.

ORDER

IT IS THEREFORE ORDERED that Commission Order No. 4497, issued March 30, 1979, is STAYED until 5:00 p.m., June 4, 1979.

IT IS FURTHER ORDERED that Respondent Burlington Northern, Inc. is not to discontinue or alter water service to the Nutting II Subdivision currently being rendered during the staying of Order No. 4497.

IT IS FURTHER ORDERED that a copy of this Order shall be sent by certified mail to Respondent-Burlington Northern, Inc. and by first class mail to all other parties of record.

DONE IN OPEN SESSION at the Commission office at 1227 11th Avenue, Helena, Montana, by a 3-0 vote this 17th day of April, 1979.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

GEORGE TURMAN, Commissioner

THOMAS J. SCHNEIDER, Commissioner

CLYDE JARVIS, Commissioner

ATTEST:

Madeline L. Cottrill
Commission Secretary

(SEAL)

NOTE: You are entitled to judicial review of the final decision in this matter. If no Motion for Reconsideration is filed, judicial review may be obtained by filing a petition for review within thirty (30) days from the service of this order. If a Motion for Reconsideration is filed, a Commission order is final for purpose of appeal upon the entry of a ruling on that motion, or upon the passage often (10) days following the filing of that motion. cf. the Montana Administrative Procedure Act, esp. Sec. 2-4-702, MCA: and Commission Rules of Practice and Procedure, esp. 38-2.2(64)-P2750, ARM.